



Substitute House Bill No. 7013

Public Act No. 17-125

AN ACT ESTABLISHING STANDARDS TO ALLOW THE INSURANCE COMMISSIONER TO DESIGNATE CERTAIN DOMESTIC INSURANCE COMPANIES AS DOMESTIC SURPLUS LINES INSURERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (*Effective July 1, 2017*) (a) A domestic insurance company that has policyholder surplus of at least fifteen million dollars may, pursuant to a resolution adopted by its board of directors and with the approval of the Insurance Commissioner, be designated as a domestic surplus lines insurer. Unless otherwise provided by law, all financial and solvency requirements imposed under chapter 698 of the general statutes on a domestic insurer authorized to do insurance business in this state shall apply to a domestic surplus lines insurer.

(b) A domestic surplus lines insurer (1) shall be considered an unauthorized insurer that is eligible to write surplus lines insurance coverage in this state, (2) shall, with respect to surplus lines insurance written in this state, be considered a nonadmitted insurer under 15 USC 8206, as amended from time to time, (3) shall only write surplus lines insurance in this state in accordance with the provisions of chapter 701d of the general statutes from a surplus lines broker licensed under section 38a-794 of the general statutes, and (4) a

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domestic surplus lines insurer may write surplus lines insurance in any other jurisdiction in which the insurer is eligible to write surplus lines insurance in accordance with the requirements of that jurisdiction.

(c) Surplus lines insurance written by a domestic surplus lines insurer shall be (1) subject to the tax imposed under section 38a-743 of the general statutes, and (2) exempt from the tax imposed under section 12-202 of the general statutes, as amended by this act.

(d) Surplus lines insurance policies issued by a domestic surplus lines insurer in this state shall not be subject to (1) the protection of the Connecticut Insurance Guaranty Association or the provisions of sections 38a-836 to 38a-853, inclusive, of the general statutes, and (2) any requirements relating to rates, rating plans, policy forms, policy cancellation and policy nonrenewal, in the same manner and to the same extent as surplus lines insurance policies issued by a surplus lines insurer domiciled in another state.

Sec. 2. Section 38a-1 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2017*):

Terms used in this title, unless it appears from the context to the contrary, shall have a scope and meaning as set forth in this section.

(1) "Affiliate" or "affiliated" means a person that directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with another person.

(2) "Alien insurer" [is defined in subparagraph (A) of subdivision (11) of this section] means any insurer that has been chartered by or organized or constituted within or under the laws of any jurisdiction or country without the United States.

(3) "Annuities" means all agreements to make periodical payments

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where the making or continuance of all or some of the series of the payments, or the amount of the payment, is dependent upon the continuance of human life or is for a specified term of years. This definition does not apply to payments made under a policy of life insurance.

(4) "Commissioner" means the Insurance Commissioner.

(5) "Control", "controlled by" or "under common control with" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with the person.

(6) "Domestic insurer" [is defined in subparagraph (B) of subdivision (11) of this section] means any insurer that has been chartered by, incorporated, organized or constituted within or under the laws of this state.

(7) "Domestic surplus lines insurer" means any domestic insurer that has been authorized by the commissioner to write surplus lines insurance.

[(7)] (8) "Foreign country" means any jurisdiction not in any state, district or territory of the United States.

[(8)] (9) "Foreign insurer" [is defined in subparagraph (C) of subdivision (11) of this section] means any insurer that has been chartered by or organized or constituted within or under the laws of another state or a territory of the United States.

[(9)] (10) "Insolvency" or "insolvent" means, for any insurer, that it is unable to pay its obligations when they are due, or when its admitted

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assets do not exceed its liabilities plus the greater of: (A) Capital and surplus required by law for its organization and continued operation; or (B) the total par or stated value of its authorized and issued capital stock. For purposes of this subdivision "liabilities" shall include but not be limited to reserves required by statute or by regulations adopted by the commissioner in accordance with the provisions of chapter 54 or specific requirements imposed by the commissioner upon a subject company at the time of admission or subsequent thereto.

[(10)] (11) "Insurance" means any agreement to pay a sum of money, provide services or any other thing of value on the happening of a particular event or contingency or to provide indemnity for loss in respect to a specified subject by specified perils in return for a consideration. In any contract of insurance, an insured shall have an interest which is subject to a risk of loss through destruction or impairment of that interest, which risk is assumed by the insurer and such assumption shall be part of a general scheme to distribute losses among a large group of persons bearing similar risks in return for a ratable contribution or other consideration.

[(11)] (12) "Insurer" or "insurance company" includes any person or combination of persons doing any kind or form of insurance business other than a fraternal benefit society, and shall include a receiver of any insurer when the context reasonably permits. [When modified as follows, the term has the following meanings:

(A) "Alien insurer" means any insurer that has been chartered by or organized or constituted within or under the laws of any state or country without the United States.

(B) "Domestic insurer" means any insurer that has been chartered by, incorporated, organized or constituted within or under the laws of this state.

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(C) "Foreign insurer" means any insurer that has been chartered by or organized or constituted within or under the laws of another state or a territory of the United States.

(D) "Mutual insurer" means any insurance company without capital stock, the managing directors or officers of which are elected by its members.

(E) "Unauthorized insurer" or "nonadmitted insurer" means an insurer that has not been granted a certificate of authority by the commissioner to transact the business of insurance in this state or an insurer transacting business not authorized by a valid certificate.]

[(12)] (13) "Insured" means a person to whom or for whose benefit an insurer makes a promise in an insurance policy. The term includes policyholders, subscribers, members and beneficiaries. This definition applies only to the provisions of this title and does not define the meaning of this word as used in insurance policies or certificates.

[(13)] (14) "Life insurance" means insurance on human lives and insurances pertaining to or connected with human life. The business of life insurance includes granting endowment benefits, granting additional benefits in the event of death by accident or accidental means, granting additional benefits in the event of the total and permanent disability of the insured, and providing optional methods of settlement of proceeds. Life insurance includes burial contracts to the extent provided by section 38a-464.

(15) "Mutual insurer" means any insurer without capital stock, the managing directors or officers of which are elected by its members.

[(14)] (16) "Person" means an individual, a corporation, a partnership, a limited liability company, an association, a joint stock company, a business trust, an unincorporated organization or other legal entity.

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[(15)] (17) "Policy" means any document, including attached endorsements and riders, purporting to be an enforceable contract, which memorializes in writing some or all of the terms of an insurance contract.

[(16)] (18) "State" means any state, district, or territory of the United States.

[(17)] (19) "Subsidiary" of a specified person means an affiliate controlled by the person directly, or indirectly through one or more intermediaries.

[(18)] (20) "Unauthorized insurer" [is defined in subparagraph (E) of subdivision (11) of this section] or "nonadmitted insurer" means an insurer that has not been granted a certificate of authority by the commissioner to transact the business of insurance in this state or an insurer transacting business not authorized by a valid certificate.

[(19)] (21) "United States" means the United States of America, its territories and possessions, the Commonwealth of Puerto Rico and the District of Columbia.

Sec. 3. Section 12-202 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2017*):

(a) Each domestic insurance company shall, annually, pay a tax on the total net direct premiums received by such company during the calendar year next preceding from policies written on property or risks located or resident in this state. The rate of tax on all net direct insurance premiums received on and after January 1, 1995, shall be one and three-quarters per cent. The franchise tax imposed under this section on premium income for the privilege of doing business in the state is in addition to the tax imposed under chapter 208. In the case of any local domestic insurance company the admitted assets of which as of the end of an income year do not exceed ninety-five million dollars,

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eighty per cent of the tax paid by such company under chapter 208 during such income year reduced by any refunds of taxes paid by such company and granted under said chapter within such income year and eighty per cent of the assessment paid by such company under section 38a-48, as amended by this act, during such income year shall be allowed as a credit in the determination of the tax under this chapter payable with respect to total net direct premiums received during such income year, provided that these two credits shall not reduce the tax under this chapter to less than zero, and provided further in the case of a local domestic insurance company [which] that is a member of an insurance holding company system, as defined in section 38a-129, these credits shall apply if the total admitted assets of the local domestic insurance company and its affiliates, as defined in said section, do not exceed two hundred fifty million dollars or, in the alternative, in the case of a local domestic insurance company [which] that is a member of an insurance holding company system, [as defined in section 38a-129,] these credits shall apply only if total direct written premiums are derived from policies issued or delivered in Connecticut, on risk located in Connecticut and, as of the end of the income year the company and its affiliates have admitted assets minus unpaid losses and loss adjustment expenses that are also discounted for federal and state tax purposes and [which] that for [said] such local domestic insurance company and its affiliates, as defined in [said] section 38a-129, do not exceed two hundred fifty million dollars.

(b) Notwithstanding the provisions of subsection (a) of this section, the tax shall not apply to surplus lines insurance policies issued by domestic insurance companies designated as surplus lines insurers pursuant to section 1 of this act.

Sec. 4. Subsection (a) of section 38a-48 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2017*):

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(a) On or before June thirtieth, annually, the Commissioner of Revenue Services shall render to the Insurance Commissioner a statement certifying the amount of taxes or charges imposed on each domestic insurance company or other domestic entity under chapter 207 on business done in this state during the preceding calendar year. The statement for local domestic insurance companies shall set forth the amount of taxes and charges before any tax credits allowed as provided in subsection (a) of section 12-202, as amended by this act.

Sec. 5. Subsection (d) of section 38a-48 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2017*):

(d) For purposes of calculating the amount of payment under section 38a-47, as well as the amount of the assessments under this section, the "total taxes imposed on all domestic insurance companies and other domestic entities under chapter 207" shall be based upon the amounts shown as payable to the state for the calendar year on the returns filed with the Commissioner of Revenue Services pursuant to chapter 207; with respect to calculating the amount of payment and assessment for local domestic insurance companies, the amount used shall be the taxes and charges imposed before any tax credits allowed as provided in subsection (a) of section 12-202, as amended by this act.

Approved June 30, 2017